

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GABRIEL ALLEN ECKARD,

CASE NO. C19-104RSM-BAT

Plaintiff,

ORDER ADOPTING REPORT AND RECOMMENDATION

V.

PATRICIA THOMAS, et al.,

Defendants.

This matter is before the Court on United States Magistrate Judge Brian A. Tsuchida's Report and Recommendation ("R&R") for the Court to deny Plaintiff's motion for summary judgment. Dkt. #20. Objections were originally due no later than August 28, 2019. *Id.* at 12. Pursuant to Plaintiff's request, the Court extended the time for Plaintiff to file objections to October 17, 2019. Dkt. #24. Defendant has not filed timely objections to the R&R and has not sought further extensions.

On September 25, 2019, Plaintiff requested “a replacement copy of the R&R, Dkt. #20[,] so that Plaintiff can issue a response to the R&R.” Dkt. #26. Plaintiff indicated that he may have lost the R&R or that it may be buried too deep for him to locate and indicates that he “retains an uncanny amount of legal documentation.” Dkt. #26 at 1. Plaintiff noted that “*he may have to request another extension of time.*” *Id.* (emphasis added). Plaintiff’s request was granted on

1 October 17, 2019, and a copy of the R&R was mailed to Plaintiff. Dkt. #29. Plaintiff did not
2 file timely objections¹ and did not seek a further extension of the deadline to file objections.

3 Accordingly, and having reviewed Plaintiff's motion for summary judgment (Dkt. #14),
4 the Report and Recommendation of United States Magistrate Judge Brian A. Tsuchida, and the
5 remaining record, the Court FINDS and ORDERS:

- 6 1. The Court ADOPTS the Report and Recommendation (Dkt. #20).
- 7 2. Plaintiff's motion for summary judgment (Dkt. #14) is DENIED.
- 8 3. Defendants' request for summary judgment based on qualified immunity, raised in
9 response to plaintiff's motion, is denied without prejudice.
- 10 4. The Clerk of Court is directed to send copies of this Order to Plaintiff at his last known
11 address and to Judge Tsuchida.

12 Dated this 25 day of November, 2019.



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14 RICARDO S. MARTINEZ
15 CHIEF UNITED STATES DISTRICT JUDGE
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¹ On October 25, 2019, the Clerk docketed a filing Plaintiff captioned as "Objection to Report & Recommendation." Dkt. #30. The filing was dated October 22, 2019, five days after Plaintiff's deadline for filing objections to the R&R. *Id.* at 6. Further, that filing appeared to, at least in part, address a then pending motion for summary judgment filed by Defendants. Judge Tsuchida expressly considered the filing as a response to the Defendants' motion for summary judgment in addressing that motion. *See* Dkt. #32 at 2 ("The Court will consider this as [Plaintiff's] response to defendants' motion for summary judgment."). Regardless, the Court has not considered the filing here because, to the extent it constituted objections to the R&R, it was untimely.